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EXAMINER

DURAN, ARTHUR D

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3622

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Application/Control Number: 09/612,156

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**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Paper No. 11

Application Number: 09/612,156  
Filing Date: July 7, 2000  
Appellant(s): Muldon, James

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GROUP 3600

Aaron T. Borrowman  
For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 4/2/04.

**(1) *Real Party in Interest***

A statement identifying the real party in interest is contained in the brief.

**(2) *Related Appeals and Interferences***

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

**(3) *Status of Claims***

The statement of the status of the claims contained in the brief is correct.

**(4) *Status of Amendments After Final***

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

**(5) *Summary of Invention***

The summary of invention contained in the brief is correct.

**(6) *Issues***

The appellant's statement of the issues in the brief is not entirely correct. In section VI, Applicant states the claims that are rejected incorrectly. The correct listing of claims that are rejected under 35 USC 103(a) is 1-9, 11-26, 28-41, 43-57, 59-66.

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**(7) Grouping of Claims**

The appellant's statement that the claims of Group I-VI stand or fall together in Group I-VI, respectively, is correct.

**(8) Claims Appealed**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(9) Prior Art of Record**

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

6,321,208	Barnett	11-2001
5,857,175	Day	6-1999

**(10) Grounds of Rejection**

Claims 1-9, 11-26, 28-41, 43-57, 59-66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnett (6,321,208) in view of Day (5,857,175).

Claim: 1, 2, 3, 4, 7, 9, 20, 21, 24, 26, 37, 41, 50, 57: Barnett discloses a process for distributing product entitlements to frequent shopper program members, comprising the steps of: capturing frequent shopper program member data including individual member account numbers and related product purchase histories from a central retailer server using a computer network and transferring the captured data to a central host system database; comparing the product purchase history of each member account number to a database of available product entitlements;

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selecting a list of available product entitlements to be associated with each member account number based on the comparison (col 7, lines 35-55; col 8, lines 14-21; col 7, line 62-col 8, line 5; col 6, lines 49-52);

Barnett further discloses sorting the captured data by member account number and categorizing the product purchase history of each account number into various product categories (col 12, lines 37-62);

Barnett further discloses sending the selected list of entitlements to predetermined host system computers within individual retail stores (col 11, lines 39-44);

redeeming the product entitlements by matching the entitlements to universal product codes of purchased products scanned at a point-of-sale checkout stand (col 11, lines 39-44; col 11, lines 24-30); and

periodically transferring frequent shopper program member transactional data from the retail store to the retail store's central server (col 7, lines 35-55).

Barnett further discloses activating a dispenser that can be located at any location with a datalink which is accessible to frequent shopper program members by entering information identifying a frequent shopper member account number (Fig. 1; col 8, lines 51-67; col 6, lines 49-51; col 11, lines 2-5); and

communicating the previously selected list of entitlements for the frequent shopper member account number which activated the dispenser to the dispenser and printing the previously selected product entitlements (col 4, lines 60-67; col 4, lines 48-57).

Barnett does not explicitly disclose that his coupon dispenser that is located anywhere with a datalink can be located within a retail store.

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However, Barnett further discloses a coupon dispenser within a retail store that can be accessed by users for coupon selection and coupon printing (col 3, lines 35-44). Barnett further discloses that coupons can be transferred to a central repository or to a retail store (col 4, lines 64-68).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Barnett's personal computer coupon dispenser flexibly located to Barnett's coupon dispenser within a store. One would have been motivated to do this because being able to access the coupons at the store shortly before time of redemption at that store would be convenient to many users.

Barnett further discloses the printing step includes printing a shopping list of the previously selected entitlements (col 10, lines 24-26).

Barnett further discloses registering users as members of the coupon utilization program (Fig. 1; col 8, ;lines 51-67; col 6, lines 49-51; col 11, lines 2-5) and historic buying profiles (col 8, lines 15-22) and tracking user purchases with coupon (col 13, lines 25-33) and utilization of a kiosk (col 3, lines 35-45).

Barnett does not explicitly disclose a frequent shopper program or tracking purchases without coupons or that the coupon dispenser is located with the retail store.

However, Day discloses distributing entitlements to shoppers who are member's of the retail stores frequent shopper program (col 5, lines 35-50; col 3, lines 23-32), obtaining member account numbers and member purchase histories with or without a coupon over a period of time (col 3, lines 23-32; col 14, lines 45-59), comparing the purchase history of the member to the available product entitlements (col 5, line 20-col 6, line 50), providing a dispenser within the

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retail store which is accessible and activated by a member by entering information identifying the member's frequent shopper account number (col 2, lines 9-17; col 4, line 41-col 5, line 5; col 5, lines 20-36), and communicating the previously selected entitlements for the frequent shopper member account number which activated the dispenser to the dispenser and printing the entitlements for the member (col 7, lines 50-59; col 10, lines 34-40).

Day further discloses that the coupon dispenser can be located at a variety of locations (col 4, lines 41-48)

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Day's frequent shopper program, tracking purchases without coupon, and coupon dispenser within the store to Barnett's user profiling, tracking users purchases with coupon, and targeted coupon providing. One would have been motivated to do this because purchase histories for purchases with and without coupon can better assist in profiling a shopper and making the targeted coupons accessible to the user in the store would be convenient to some users.

Claim 5, 22, 38: Barnett and Day disclose the process of claim 1, 20, 37, and Barnett further discloses the printing step includes printing coupons representing the previously selected entitlements (col 4, lines 29-34; col 4, lines 64-67).

Claim 6, 23, 39, 51: Barnett and Day disclose the process of claim 5, 22, 38, 50, and Barnett further discloses the printed coupon includes product information, rebate information and a bar code thereon (Fig. 5).

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Claim 8, 25, 40, 52: Barnett and Day disclose the process of claim 7, 24, 39, 51, and Barnett further discloses the redeeming step includes scanning the bar code on the printed coupon at the point-of-sale checkout (col 11, lines 10-13; col 11, lines 17-21; Fig. 5).

Claim 11, 28, 43, 59: Barnett and Day disclose the process of claim 9, 26, 41, 57, and Barnett further discloses the printed shopping list is organized in such a manner that the frequent shopper program member is led through the retail store from the dispenser to the point-of-sale checkout in a convenient manner (col 10, lines 31-37).

Claim 12, 29, 44, 60: Barnett and Day disclose the process of claim 10, 28, 43, 59. Barnett further discloses that items can be ordered by type (col 10, lines 5-10) and organized in a list by location or layout in a store (col 10, lines 34-39). Barnett does not disclose that the layout or location instructions include aisle number.

However, it is inherent to many retail stores that they include aisle numbers for locating products in the store's layout.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add aisle number to Barnett's shopping list organized by product location for a specific retail store. One would have been motivated to do this because aisle number is a convenient way to locate a product in the layout of a store.

Claim 13, 30, 45, 61: Barnett and Day disclose the process of claim 9, 27, 42, 58, and Barnett further discloses the shopping list includes a bar code which identifies the frequent shopper program member account number (col 11, lines 1-10; col 10, lines 44-47).

Claim 14, 31, 46, 62: Barnett and Day disclose the process of claim 9, 27, 41, 57, and Barnett further discloses the step of relaying the previously selected list of entitlements sent to



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the dispenser to a retail store computer in order to allow the matching of the shopping list of entitlements to products purchased at the point-of-sale checkout during redeeming step (col 11, lines 37-44; col 10, lines 47-57).

Claim 15, 32: Barnett and Day disclose the process of claim 14, 31, and Barnett further disclose the step of relaying the previously selected list of entitlements to the central retailer server (col 10, lines 47-57; col 11, lines 5-10).

Claim 16, 33, 53, 63: Barnett and Day disclose the process of claim 1, 20, 50, 57, and Barnett further discloses the step of periodically transferring frequent shopper program member transactional data from the retail store computer to the retail store's central server (col 7, lines 17-21; col 7, lines 35-55).

Claim 17, 34, 47, 54, 64: Barnett and Day disclose the process of claim 1, 20, 37, 50, 57. Barnett further discloses a unique user identifier (col 11, lines 1-5) and that the unique user identifier can be on the coupon (col 11, lines 1-10; Fig. 5). Barnett further discloses a card bearing a magnet strip that includes coupon information for redemption in a store (col 3, lines 20-25). Barnett further discloses uniquely identifying a user at time of purchase (col 11, lines 17-24; col 12, lines 31-41).

Barnett does not explicitly disclose that the card identifies a user.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Barnett's uniquely identifying a user at time of purchase and Barnett's coupons with unique user identifiers to Barnett's magnetic stripe card for coupon redemption at a retail store. One would have been motivated to do this because a magnetic stripe card is a convenient way of tracking a user's activity.

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Claim 18, 35, 48, 55, 65: Barnett and Day disclose the process of claim 1, 20, 37, 50, 57, and Barnett further discloses the activating step includes the step of scanning a bar code containing the frequent shopper program member account number (col 11, lines 10-25).

Claim 19, 36, 49, 56, 66: Barnett and Day disclose the process of claim 1, 20, 37, 50, 57. Barnett further discloses a user account (col 6, lines 49-51) and a unique account identifier (col 11, lines 2-5). Barnett further discloses a keyboard for user input into a terminal to access the user account (col 8, lines 52-58).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made that Barnett can input user account information via the keyboard. One would have been motivated to do this because a keyboard is a standard and convenient way of logging into a user account.

**(11) Response to Argument**

Examiner notes that a 35 USC 103(a) rejection was made utilizing Barnett and Day. Therefore, it is the combination of Barnett and Day that renders obvious the Appellant's claimed invention. Examiner notes that while specific references were made to the prior art, it is actually also the prior art in its entirety and the combination of the prior art in its entirety that is being referred to.

Also, Examiner notes that it is the Applicant's claims as stated in the Applicant's claims that are being rejected with the prior art. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van*

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*Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The combination of Barnett and Day were applied as prior art rendering obvious the Appellant's claimed invention.

On page 4 of the Appellant's Appeal Brief dated 4/2/04, Appellant states, "the Examiner incorrectly asserts that Day discloses distributing entitlements to shoppers who are members of the retail store's frequent shopper program, obtaining member account numbers and member purchase histories with or without a coupon over time, and comparing the purchase history of the member to the available product entitlements".

However, Day discloses these features as cited in the Final Rejection above. Key parts of this rejection are again cited below.

Day discloses distributing entitlements to shoppers who are member's of the retail stores frequent shopper program (col 5, lines 35-50; col 3, lines 23-32):

"In addition, the customer may be entitled to a frequent shopper plan (similar to frequent flyer plans) or to a lottery if he or she uses the card 22. The frequent shopper plan awards points based on amount of use of the card 22 or based on amounts spent in the store. A lottery number can be printed on the shopping list by the printer 32, for later comparison by the shopper with a list of randomly selected winners, or the shopping list can include an indication as to whether or not the customer is a winner. The prizes for the winner of the lottery can include bonus frequent shopper points, product discounts, cash awards, etc" (col 5, lines 35-50)  
, and,

"Each computer 12 includes a database containing customer account information, including information regarding purchases made by individual customers. Each computer 12 further includes a database of special offers including customized targeted offers to be made to selected customer accounts on the basis of targeted offer targeting parameters. While various other types of computers can be employed, in the illustrated embodiment the computer 12 is a UNIX machine" col 3, lines 23-32).

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Day discloses obtaining member account numbers and member purchase histories with or without a coupon over a period of time:

"Each computer 12 includes a database containing customer account information, including information regarding purchases made by individual customers. Each computer 12 further includes a database of special offers including customized targeted offers to be made to selected customer accounts on the basis of targeted offer targeting parameters. While various other types of computers can be employed, in the illustrated embodiment the computer 12 is a UNIX machine" (col 3, lines 23-32), and,

"FIGS. 12-14 are flow chart illustrating transactional analysis that takes place at a check-out (point of sale terminal). A determination is made whether a household has redeemed a special offer up to the maximum quantity for which the special offer was available. If so, the household will not see that special offer again unless the manufacturer reinstates it. After a check-out transaction is completed, and a sale is closed, the shopping history of the customer is updated, to reflect all purchases made by the customer. A determination can be made as to whether the customer accepted a special offer, passed on the special offer (did not make a purchase of any product for the category), or rejected the special offer (purchased a competitor's product)" (col 14, lines 45-59).

Day discloses comparing the purchase history of the member to the available product entitlements (col 5, line 20-col 6, line 50):

"The store level computer 12 then communicates to the check-out register 34 each discount that the consumer qualified for because of the product purchases made in this shopping trip prior to the scan of the customer card 22. Subsequent discounts are then received by the check-out 34 immediately following the scan of a qualifying product, as previously presented. (col 6, lines 40-50)".

Day also discloses these features of comparing purchase history of the member to available product entitlements in other sections of Day's disclosure (col 3, line 23-32; col 5, line 20-col 6, line 50).

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On page 9, Appellant presents arguments concerning Barnett and Day references individually.

Also, in response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

On page 10 of the Appellant's Appeal Brief, Appellant states that there is no motivation to combine Barnett and Day. Examiner will now address the Appellant's statement concerning motivation and also the Appellant's statement throughout the Appellant's Appeal Brief that Barnett and Day do not disclose a frequent shopper program. Examiner will also address how Barnett and Day disclose that tracking a user's purchases can include tracking purchases both with and without coupon.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, Barnett discloses retailer coupons and coupons utilized in retail stores (col 1, lines 29-32; col 11, lines 36-44; col 10, lines 30-38). Barnett also discloses that the coupons are made available in retail stores (col 11, lines 36-44; col 3, lines 35-52). Barnett also discloses that

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the users are members (col 13, lines 60-65) and that they are frequent shoppers whose shopping activity is tracked (col 8, lines 16-20; col 10, lines 43-46).

Additionally, Barnett discloses tracking user coupon use at a retail store(s) over an extended period of time (col 8, lines 14-21; Fig. 10) and that the user repeatedly shops at the store (col 10, lines 40-46). Note that the user can utilize the same shopping list multiple times. Barnett also discloses that coupon information can be loaded onto a user's card or smartcard (col 3, lines 20-25) or printed or electronically transferred (col 11, lines 29-44). Barnett further discloses that the user registers to become a member of the coupon program (col 7, line 60-col 8, line 5) and that the user can select between different stores (col 10, lines 40-45) and that coupons can be set to only be redeemable at specific locations or with specific instructions (Fig. 3, 'Redemption Instructions', 'Redemption Address'). Hence, Barnett discloses registered, long term shopping users who utilize coupons or discounts for shopping.

Note that while Barnett does not explicitly disclose tracking purchases with or without coupon, that Barnett does disclose tracking historic buying profiles of users (col 8, lines 17-21) and coupon utilization for purchases of users (col 12, lines 30-35).

Day discloses that a repeat shopper that utilizes coupons can be a member in a frequent shopper program (col 5, lines 35-55; col 20, lines 64-68) and that the user can become a new member of the entitlements program (col 11, line 6-10). Day further discloses that both purchases with coupons (col 8, lines 15-20) and without coupons (col 3, lines 23-27) can be tracked.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add Day's frequent shopper program and tracking purchases without

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coupon to Barnett's user profiling, historic buying profile tracking, long term user tracking, registering of new users, and targeted coupon providing. One would have been motivated to do this because a frequent shopper program offers a further way to track and profile a user and encourage user shopping. Also, tracking both purchases with and without coupon provides more information on user shopping habits so that a better profile of the user can be made.

Also, note that the frequent shopper program thus demonstrated to be disclosed by the combination of Barnett and Day would also apply to the claims dependent upon the independent claims.

In response to Appellant's arguments on page 11, that Barnett teaches away from an in-store-kiosk based system, Barnett further discloses that coupon information can be available to a user in a retail store:

"The electronic coupon data could also be routed via the data communications interface 20 to a retail store where the user will be shopping, where the coupon data is held in a buffer pending purchase by the user of the matching product" (col 11, lines 37-45),

, and that coupons can be issued to a retailer location (Fig. 1, items 14, items 10).

Additionally, in the Background section of Barnett, Barnett discloses the utilization of a kiosk as an obvious way to distribute coupons to users:

"Spector teaches a closed-loop coupon system which consists of a kiosk type printer station located at a retail store. The kiosk is linked to the manufacturers in order to obtain specific coupon information. The consumer selects the desired coupon at the kiosk, and the coupon is printed and dispensed. The consumer presents the coupon at the register, where the discount is applied and the discount transaction data is transmitted back to the manufacturer" (col 3, lines 35-45).

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Additionally, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

And, In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

On page 12 of the Appellant's Appeal Brief, the Appellant states the features, 'in a retail store to shoppers who are members of the retail store's frequent shopper program' as being absent from the prior art and on page 13 that, "Neither Barnett nor Day is directed to a process for distributing...frequent shopper program". The disclosure of these features in the combination of Barnett and Day is presented above in this Response to Arguments section. Please see the section above detailing the motivation to combine Barnett and Day.

On page 13, the Appellant states that the prior art does not disclose "obtaining from the retail store frequent shopper program member data" or "relate product purchase histories from the central server of the retail store".



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However, Barnett discloses that the user purchasing history can be obtained from the retail store 13 or 10 and transferred to a database 11. Please see Fig. 1 and the below:

"The database 11 also stores information from the coupon redemption center 13 regarding the coupons actually redeemed by the user. The database 11 further stores information regarding all coupons which are made available by the various coupon issuers 14 from which it will generate coupon data packages for subsequent downloading to users" (col 12, lines 30-37 and Fig. 1).

Note that the redemption center 13 can be a part of a retail store or separate from the retail store:

"Further, the coupon redemption and user redemption information processing functions individually carried out by the coupon redemption center 13 and the individual retail stores 10 may be combined into a single redemption center, as shown by the dotted line in FIG. 1. The physical layout of the functions within the system of the present invention is a matter a practicality and choice of the systems designer and does not impact the utility of the present invention" (col 13, lines 2-10).

Also, Barnett further states how coupon information is transmitted from the store to a coupon redemption center or coupon distribution center:

"That is, the coupons 18 are presented to a product checkout station 11 along with the associated products for purchase, and the discount amount shown on the coupon 18 is credited to the consumer at the point of sale. The redeemed coupons 18 are transmitted to a coupon redemption center 13 where they are electronically read, and user-specific data is stored in a coupon redemption database 12. (col 7, lines 12-20)

, and,

"The coupon redemption center 13 receives from a number of stores 10 the coupons redeemed, verifies the value of the redeemed coupons, determines the identification of users who redeemed the coupons, and distributes the information read from the coupons 18 to the individual coupon issuer 14 and to the coupon distributor 16. In particular, information regarding the redemption amount and the redeeming store 10 is forwarded to the

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particular coupon issuer 14 named on the coupon 18, which then credits the redeeming store 10 with the total amount of discounts given. Of particular value in the present invention is the distribution of user-specific data to the coupon distribution center 16, which collates such user information and performs marketing analysis via a marketing analysis means 17 in order to compile subsequent coupon packages targeted specifically at certain user categories. The coupon distribution center 16 utilizes the user-specific redemption data along with user-specific demographic data supplied by the online service provider 2 in order to compile subsequent coupon data download packages for use by consumers once again" (col 7, lines 35-55).

On page 14, Appellant states that the prior art does not disclose a dispenser. However, please see the comments above in this Response to Arguments section concerning Barnett's disclosure of a kiosk. Also, Day discloses, as noted in the Final Rejection, the utilization of an in-store kiosk for dispensing entitlements to users (col 4, lines 41-48) and that the dispenser has a printer:

"The kiosk 26 also houses an offer communicator (offer communicator means) 32 for communicating respective individualized lists of special offers to customers who access the customer interface. While various offer communicators could be employed, in the illustrated embodiment the offer communicator comprises a printer. The printer 32 is preferably a high speed printer, such as a thermal printer, so as to enable quick processing of customers at the kiosk 26 to keep lines at the kiosk 26 down to a minimum. In one embodiment, the printer 32 prints at least 500 lines per minute. More particularly, the printer 32 is a thermal strip printer which prints 600 lines per minute. Other high speed printers can be employed" (col 4, line 59-col 5, line 5).

On page 14-15 of the Appellant's Appeal Brief, the Appellant makes several comments about the dependent claims.

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In response to comments concerning dependent claim 2, 3, Barnett further discloses sorting the captured data by member account number and categorizing the product purchase history of each account number into various product categories (col 12, lines 37-62). Note that members are sorted (Fig. 10, item 40) and placed into various categories (col 12, lines 37-62) and that members have account numbers (col 13, lines 57-63).

In response to comments concerning dependent claim 9, Barnett discloses printing products and product discount information (col 10, lines 24-28). Barnett further discloses manufacturer provided coupons and a wide variety of other types of coupons (col 1, lines 20-32). Therefore, it would be obvious that Barnett's manufacturer provided coupon can be a rebate.

In response to comments concerning dependent claims 11 and 12, please see the Final Rejection of claims 11 and 12 above. Also, note the following relevant sections:

"Further, a sortation option is provided which logically sorts, by category and subcategory, the coupons stored. Thus, the management program automatically places all the dairy coupons together, and may also place all the milk coupons together within the dairy category" (col 10, lines 5-10)

, and,

"The shopping list generation routine 32g may also advantageously use data stored in the store-specific data file 30e in order to prepare a shopping list tailored to an individual retail store. Thus, data regarding the layout of the store, the food items available at the store, and the like, are used by the list generation routine 32g in order to organize the purchase items accordingly. . . Data for different stores can be kept in the file 30e and the user simply selects the store he intends on using at that particular time" (col 10, lines 30-45).

Note that aisle number is an obvious piece of information when considering the layout of a store that provides food or a grocery store.

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In response to comments concerning dependent claims 13, Barnett discloses that the user identification includes a bar code number:

"The user identification bar code number is a unique number assigned to that user, e.g. his social security number or online identification number" (col 11, lines 1-5).

In response to comments concerning dependent claims 16, please see the section of the Response to Arguments section above that addresses Appellant's arguments from page 13 and presents how Barnett discloses that "the user purchasing history can be obtained from the retail store 13 or 10 and transferred to a database 11." Also, note that Barnett discloses that Barnett discloses that the analysis of user activity can occur for set periods of time (col 12, lines 59-63).

Also, as noted above in the Response to Arguments section concerning the motivation to combine Barnett and Day, note that the frequent shopper program demonstrated to be disclosed by the combination of Barnett and Day as being relevant to the Appellant's independent claims would also apply to the Appellant's claims that are dependent upon the Appellant's independent claims. Hence, the demonstration that the combination of Barnett and Day discloses a frequent shopper program applies to all the Appellant's claims.

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For the above reasons, it is believed that the rejections should be sustained.


Respectfully submitted,

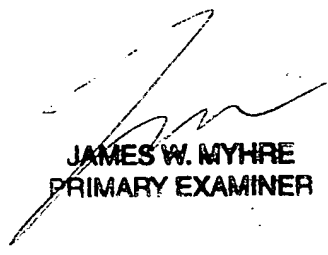
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November 10, 2004

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